

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)

Act 523 of 1980

ARTICLE 3

32.1015 Disciplinary punishment for minor offense; combination; serving correctional custody; imposition of punishment upon enlisted member by officer in charge; suspension, remission, or mitigation of punishment; appeal; disciplinary punishment not bar to trial by court-martial; records of proceedings; right to demand trial by court-martial; applicability of forfeiture to pay and allowances.

Sec. 15.

(1) Under regulations issued pursuant to this act, a commanding officer, in addition to or instead of an admonition or reprimand, may impose disciplinary punishment for a minor offense on an officer under his or her command without the intervention of a court-martial with 1 of the following:

(a) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive active state duty days.

(b) If imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command:

(i) Arrest in quarters for not more than 15 consecutive active state duty days.

(ii) Forfeiture of not more than 1/2 of 1 month's pay per month for 2 months.

(iii) Restrictions to certain specified limits with or without suspension from duty, for not more than 15 consecutive duty days.

(c) Upon other military personnel under his or her command, 1 or more of the following:

(i) Correctional custody for not more than 7 consecutive duty days.

(ii) Forfeiture of not more than 7 duty days' pay.

(iii) Reduction to the next inferior pay grade, if the grade from which the person is demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the officer who imposes the reduction.

(iv) Extra duties, including fatigue or other duties for not more than 15 consecutive duty days and not more than 2 hours per day.

(v) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive duty days.

(d) If imposed by an officer of the grade of major or above upon other military personnel under his or her command:

(i) Correctional custody for not more than 15 consecutive duty days.

(ii) Forfeiture of not more than 15 duty days' pay.

(iii) Reduction to the lowest or an intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or the officer imposing the reduction is a brigade, wing, base, or post commander, except that an enlisted member in a pay grade above E4 may not be reduced more than 2 pay grades.

(iv) Extra duties, including fatigue or other duties, for not more than 15 consecutive duty days.

(v) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive duty days.

(2) Two or more disciplinary punishments of arrest in quarters, correctional custody, extra duties, and restriction shall not be combined to run consecutively in the maximum amount imposed for each. If any of those punishments are combined to run consecutively, the commanding officer shall apportion the punishment.

(3) If practicable, correctional custody shall not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

(4) An officer in charge may impose upon an enlisted member assigned to the unit of which the officer is in charge a punishment authorized under subsection (1)(c) as the adjutant general concerned may specifically prescribe by rule.

(5) The officer who imposes the punishment authorized in subsection (4), or the officer's successor in command, may suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (4), whether or not executed. In addition, the officer may remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. The officer also may mitigate reduction in grade to forfeiture or

detention of pay.

(6) When mitigating arrest in quarters to restriction, correctional custody to extra duties or restriction, or both, or extra duties to restrictions, the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture.

(7) A person punished under this section who considers the punishment received as unjust or disproportionate to the offense, through the proper channel, may appeal to the next superior authority. The appeal shall be made not later than 45 days after the punishment is adjudged. The appeal shall be promptly forwarded and decided, and the person punished shall not be required to undergo the punishment adjudged before a decision on the appeal is rendered. The officer who imposes the punishment, the officer's successor in command, or superior authority is authorized to suspend, set aside, or remit any part or amount of the punishment and to restore all rights, privileges, and property affected. The authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice before acting upon the appeal.

(8) The imposition and enforcement of disciplinary punishment under this section for an act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(9) The adjutant general, by regulation, may prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

(10) Before being informed of the disciplinary action to be taken under this section, the person to be punished has the right to demand trial by court-martial for the offense.

(11) If a punishment of forfeiture of pay and allowance is imposed as provided in this section, the forfeiture may apply to pay or allowances becoming due on or after the date of the punishment but shall not apply to pay and allowances accrued before the date.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2005, Act 186, Imd. Eff. Oct. 27, 2005.

Administrative rules: R 32.101 et seq. and R 32.171 et seq. of the Michigan Administrative Code.